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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Don Shigeo Yokoyama, M.D.** **3000 Q St.** **Sacramento, CA 95816-7058** **Physician's and Surgeon's Certificate No. G 52988,** Respondent.	Case No. 800-2017-035890 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about July 9, 1984, the Medical Board issued Physician's and Surgeon's Certificate No. G 52988 to Don Shigeo Yokoyama, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides in pertinent part that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states, in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

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6. Section 2266 of the Code states, in pertinent part:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

PERTINENT DRUG INFORMATION

7. Alprazolam – Generic name for the drug Xanax. Alprazolam is a short-acting benzodiazepine used to treat anxiety, and is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14. Alprazolam is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule IV controlled substance pursuant to California Health and Safety Code section 11057(d).

8. Armodafinil – Generic name for the drug Nuvigil. Armodafinil is a medication that promotes wakefulness. Nuvigil is used to treat excessive sleepiness caused by sleep apnea, narcolepsy, or shift work sleep disorder, and is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c). It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (f), and a dangerous drug pursuant to Business and Professions Code section 4022.

9. Clonazepam – Generic name for Klonopin. Clonazepam is an anti-anxiety medication in the benzodiazepine family used to prevent seizures, panic disorder and akathisia. Clonazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c). It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

10. Diazepam – Generic name for Valium. Diazepam is a long-acting member of the benzodiazepine family used for the treatment of anxiety and panic attacks. Diazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

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11. Hydrocodone with acetaminophen – Generic name for the drugs Vicodin, Norco, and Lortab. Hydrocodone with acetaminophen is classified as an opioid analgesic combination product used to treat moderate to moderately severe pain. Prior to October 6, 2014, Hydrocodone with acetaminophen was a Schedule III controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.13(e). On October 6, 2014, Hydrocodone combination products were reclassified as Schedule II controlled substances. Federal Register Volume 79, Number 163, Code of Federal Regulations Title 21 section 1308.12. Hydrocodone with acetaminophen is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule II controlled substance pursuant to California Health and Safety Code section 11055, subdivision (b).

12. Lorazepam – Generic name for Ativan. Lorazepam is a member of the benzodiazepine family and is a fast-acting anti-anxiety medication used for the short-term management of severe anxiety. Lorazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

13. Morphine Sulfate – Generic name for the drugs MS Contin and MorphaBond ER. Morphine is an opioid analgesic drug. It is the main psychoactive chemical in opium. Like other opioids, such as oxycodone, hydromorphone, and heroin, morphine acts directly on the central nervous system (CNS) to relieve pain. Morphine is a Scheduled II controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.12. Morphine is a Schedule II controlled substance pursuant to Health and Safety Code 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. With morphine sulfate (MS), the positive charge on the morphine molecule is neutralized by the negative charge on the sulfate. Because it is ionic, MS dissolves readily in water and body fluids, creating an immediate release.

14. Oxycodone – Generic name for OxyContin, Roxicodone, and Oxecta. Oxycodone carries a high risk for addiction and dependence, and can cause respiratory distress and death when taken in high doses or when combined with other substances, especially alcohol.

Oxycodone is a short-acting opioid analgesic used to treat moderate to severe pain. OxyContin ER is a long-acting opioid formulation consisting of an extended-release mechanism sold under the brand name OxyContin. Oxycodone is a Schedule II controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.12. Oxycodone is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule II controlled substance pursuant to California Health and Safety Code section 11055(b).

15. Suboxone – Brand name for a film comprised of Buprenorphine and Naloxone.

a. Buprenorphine – Generic name for Butrans, is an opioid used to treat opioid addiction, moderate acute pain, and moderate chronic pain. When used in combination with naloxone for treating opioid addiction, it is known by the trade name Suboxone. As a transdermal patch, Butrans is used for chronic pain. Buprenorphine is a Schedule III controlled substance pursuant to Code of Federal Regulations Title 21 Section 1308.13(e), and is a dangerous drug pursuant to Business and Professions Code section 4022.

b. Naloxone – Generic name for Narcan. Naloxone is a narcotic blocker, used to treat narcotic drug overdose and/or to temporarily reverse the effects of opioid medicines. Naloxone is a Schedule II controlled substance pursuant to Code of Federal Regulations Title 21 Section 1308.12(b)(1). Naloxone is a dangerous drug pursuant to Business and Professions Code section 4022.

16. Zolpidem Tartrate – Generic name for Ambien. Zolpidem Tartrate is a sedative and hypnotic used for short term treatment of insomnia. Zolpidem Tartrate is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c). It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

17. Respondent's license is subject to disciplinary action under section 2234, subdivision (b), of the Code, in that he committed gross negligence during the prescribing of controlled substances to Patient A. The circumstances are as follows:

18. Sometime on or before August 25, 2006, Respondent began treating Patient A.[1] [2] Respondent reported that he was treating Patient A for chronic back pain, knee pain, and anxiety/depression. He reported that he was continuing to prescribe hydrocodone to Patient A, in the amount of 10 milligram doses, with one (1) to two (2) doses every six (6) hours, as needed for pain.

19. On or about March 12, 2007, Respondent began prescribing morphine to Patient A, in the amount of 30 milligram doses, with one (1) to two (2) tablets, twice daily, for persistent lower back pain.

20. On or about June 6, 2007, Patient A reported continued back pain. A spinal x-ray revealed that Patient A had suffered a compression fracture of the thoracic vertebral body. Respondent increased Patient A's morphine dosage to 100 milligrams, twice daily. He additionally continued Patient A's hydrocodone and Xanax prescriptions.

21. On or about March 13, 2008, Patient A reported worsening back pain. Respondent documented that he increased morphine to 200 milligram doses, three (3) times daily. Respondent additionally continued Patient A's hydrocodone prescription of 10 milligram doses, with one (1) to two (2) doses every four (4) to six (6) hours, as needed.

22. Between January 4, 2010, and April 18, 2013, Patient A was seen approximately thirty-six (36) times by Respondent, primarily for treatment of chronic musculo-skeletal pain and depression/anxiety. During this period of time, Respondent regularly prescribed Patient A morphine, hydrocodone, Oxycontin, alprazolam, diazepam, and lorazepam. In total, Patient A was prescribed approximately 3,310 morphine tablets in 200 milligram dosages; 5,132 tablets of hydrocodone in 10 milligram doses; ninety (90) tablets of Oxycontin in 80 milligram doses; 1,110 tablets of alprazolam in 1 milligram doses; 2,520 tablets of alprazolam in 0.5 milligram doses; ninety (90) tablets of alprazolam in 0.25 milligram doses; ninety (90) tablets of diazepam in 0.5

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[1] Conduct alleged to have before January 1, 2012, is for informational purposes only. That said, errors or omissions that occurred before January 1, 2012, which led to a continuing course of conduct which resulted in errors and omissions after January 1, 2012, are being alleged as a basis for discipline.

[2] Patient names and information have been removed. All witnesses will be identified in discovery.

milligram doses; and 120 tablets of lorazepam in 0.5 milligram doses. During this time period, Patient A's daily dosage varied between approximately 420 to 620 milligrams of various controlled substances per day.

23. The Medical Board obtained certified pharmacy profiles pertaining to Patient A, from the dates of January 4, 2010, to April 18, 2013. During that time period, Respondent prescribed large amounts of a variety of controlled substances to Patient A. For example, between January 5, 2012, and April 18, 2013, Respondent prescribed or re-filled the following controlled substances to Patient A:

Date Filled	Prescription	Quantity	Dosage	Schedule
January 5, 2012	Hydrocodone Bitartrate-Acetaminophe	120 tablets	10 mg./325mg.	III
January 17, 2012	Alprazolam	90 tablets	1 mg.	IV
January 19, 2012	Hydrocodone Bitartrate-Acetaminophe	120 tablets	10 mg./325mg.	III
January 20, 2012	Nuvigil	30 tablets	150 mg.	IV
February 17, 2012	Hydrocodone Bitartrate-Acetaminophe	120 tablets	10 mg./325mg.	III
February 17, 2012	Nuvigil	30 tablets	150 mg.	IV
March 2, 2012	Morphine sulfate	270 tablets	200 mg.	II
March 6, 2012	Alprazolam	270 tablets	1 mg.	IV
March 6, 2012	Nuvigil	90 tablets	150 mg.	IV
March 9, 2012	Hydrocodone Bitartrate-Acetaminophe	120 tablets	10 mg./325mg.	III

March 30, 2012	Hydrocodone Bitartrate-Acetaminophe	120 tablets	10 mg./325mg.	III
April 5, 2012	Alprazolam	15 tablets	1 mg.	IV
April 9, 2012	Lorazepam	60 tablets	1 mg.	IV
April 9, 2012	Oxycontin	90 tablets	80 mg.	II
April 16, 2012	Hydrocodone Bitartrate-Acetaminophe	120 tablets	10 mg./325mg.	III
April 23, 2012	Alprazolam	90 tablets	1 mg.	IV
April 23, 2012	Morphine sulfate	90 tablets	200 mg.	II
May 2, 2012	Nuvigil	90 tablets	150 mg.	IV
May 8, 2012	Alprazolam	270 tablets	1 mg.	IV
May 14, 2012	Hydrocodone Bitartrate-Acetaminophe	120 tablets	10 mg./325mg.	III
May 15, 2012	Morphine sulfate	270 tablets	200 mg.	II
June 13, 2012	Hydrocodone Bitartrate-Acetaminophe	120 tablets	10 mg./325mg.	III
July 3, 2012	Nuvigil	90 tablets	150 mg.	IV
July 19, 2012	Alprazolam	90 tablets	1 mg.	IV
July 20, 2012	Alprazolam	15 tablets	1 mg.	IV
July 25, 2012	Hydrocodone Bitartrate-Acetaminophe	120 tablets	10 mg./325mg.	III
August 14, 2012	Morphine sulfate	60 tablets	200 mg.	II

September 5, 2012	Hydrocodone Bitartrate-Acetaminophe	40 tablets	10 mg./325mg.	III
September 6, 2012	Morphine sulfate	20 tablets	200 mg.	II
October 9, 2012	Hydrocodone Bitartrate-Acetaminophe	112 tablets	10 mg./325mg.	III
October 10, 2012	Alprazolam	90 tablets	0.25 mg.	IV
October 11, 2012	Nuvigil	28 tablets	150 mg.	IV
October 17, 2012	Morphine sulfate	60 tablets	200 mg.	II
November 26, 2012	Morphine sulfate	30 tablets	200 mg.	II
December 8, 2012	Morphine sulfate	60 tablets	200 mg.	II
December 11, 2012	Hydrocodone Bitartrate-Acetaminophe	60 tablets	10 mg./325mg.	III
December 27, 2012	Hydrocodone Bitartrate-Acetaminophe	60 tablets	10 mg./325mg.	III
January 3, 2013	Morphine sulfate	60 tablets	200 mg.	II
January 11, 2013	Hydrocodone Bitartrate-Acetaminophe	60 tablets	10 mg./325mg.	III
February 26, 2013	Morphine sulfate	90 tablets	200 mg.	II
April 18, 2013	Morphine sulfate	270 tablets	200 mg.	II

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24. On or about April 1, 2010, Patient A presented to Respondent after sustaining a fall while walking up the staircase at her place of employment. At the time, she was on a prescription medication regimen of one (1) to two (2) alprazolam tablets, in 0.5 milligram doses, three (3) times daily; one (1) morphine sulfate tablet, in 200 milligram doses, three (3) times daily; and one (1) to two (2) hydrocodone-acetaminophen tablets in 10/325 milligram doses, every six (6) hours; in addition to other medications.

25. On or about May 19, 2011, Respondent became aware that Patient A was improperly taking up to four (4) alprazolam at a time. Patient A additionally reported that she had been experiencing emotional lability.[3] Although Respondent was aware that Patient A had improperly used her medication and was experiencing a known side effect of narcotic and/or benzodiazepine misuse, he recommended continued usage of her then-current medications.

26. On or about July 29, 2011, Respondent became aware that Patient A had fallen asleep while sitting on the toilet, and proceeded to fall, causing her head to hit the bathroom floor. However, Respondent failed to change or modify Patient A's prescription regimen.

27. On or about September 21, 2011, Respondent became aware that Patient A was hospitalized with symptoms of slurred speech and decreased mental activity, which resulted from her taking four (4) milligrams of alprazolam in an apparent error. Respondent acknowledged that Patient A had improperly taken the medication, however, he continued Patient A's prescription regimen.

28. On April 9, 2012, during a medical appointment with Respondent, Patient A stated to Respondent that her prescription medicine was stolen from her purse. She additionally reported to Respondent that she required the assistance of friends and family to help dispense her medications, since she often forgot to take them. On that date, Patient A entered into a pre-printed Pain Medication/Narcotic contract with Respondent. The document mentioned risks including tolerance, addiction, overdose, and inability to drive motor vehicles. The agreement also stated early refills would not be allowed, all of her prescriptions would be through

[3] Emotional lability is when a patient presents with pathological laughter and crying, or emotional incontinence.

Respondent, all prescriptions would be filled at a "Rite Aid Pharmacy," medical and psychological assessments could be ordered at any time, and any use of illegal drugs or non-prescribed drugs could result in termination of her existing prescriptions. The document was signed by Respondent and Patient A.

29. On or about May 22, 2012, Respondent became aware that Patient A had tested positive for methadone and marijuana, after she had been hospitalized for nausea and vomiting. She additionally reported to Respondent that she had a lack of memory and excessive fatigue. At that time, she was on a prescription medication regimen of one (1) nuvigil tablet, in 150 milligram doses, once daily; one (1) to two (2) alprazolam tablets, in 1 milligram doses, three (3) times daily; one (1) morphine sulfate tablet, in 200 milligram doses, three (3) times daily; and one (1) to two (2) hydrocodone-acetaminophen tablets, in 10/325 milligram doses, every six (6) hours; in addition to other medications. Respondent acknowledged that Patient A had violated her pain contract, however, the only modification Respondent made to Patient A's prescription regimen was a change from one (1) morphine sulfate tablet, in 200 milligram doses, three (3) times daily, to twice daily.

30. On September 12, 2012, Respondent became aware that Patient A had unintentionally overdosed on pain medication. At that time, she was on a prescription medication regimen of one (1) nuvigil tablet, in 150 milligram doses, once daily; one (1) clonazepam tablet, in 1 milligram doses, three (3) times daily; one (1) morphine sulfate tablet, in 200 milligram doses, twice daily; and one (1) hydrocodone-acetaminophen tablet, in 10/325 milligram doses, every six (6) hours; in addition to other medications. Respondent continued to prescribe high-dose narcotics, mixed narcotics, and narcotics mixed with benzodiazepines.

31. On April 18, 2013, Respondent became aware that Patient A had unintentionally overdosed on alprazolam. At that time, she was on a prescription medication regimen of one (1) alprazolam tablet, in 0.5 to 1 milligram doses, three (3) times daily; one (1) morphine sulfate

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tablet, in 200 milligram doses, three (3) times daily; and one (1) to two (2) hydrocodone-acetaminophen tablets, in 10/325 milligram doses, every six (6) hours; in addition to other medications. Respondent discontinued the alprazolam prescription, however, he continued to prescribe the remaining narcotic and benzodiazepine regimen.

32. Between January 4, 2010, and April 18, 2013, Patient A exhibited multiple side effects from ongoing chronic controlled substances therapy while under Respondent's care. Specifically, during this time period, Patient A reported that she suffered from severe constipation, emotional lability, worsening fatigue, memory-related problems, worsening mood and depression, and low levels of concentration and memory.

33. Respondent's license is subject to discipline for gross negligence because, between January 5, 2012, and April 18, 2013, Respondent failed to significantly modify Patient A's treatment. Instead, Respondent continued to prescribe high-dose narcotics and mix narcotic and benzodiazepine treatment. Additionally, between January 5, 2012 and April 18, 2013, Respondent failed to undertake and/or document risk assessment for continued prescribing of long-term use of controlled substances. Specifically, Respondent failed to use any of the various screening and monitoring tools available to him, including, but not limited to Opiod Risk Tool, Screener, Opiod Assessment for Patient's With Pain, Pain Assessment and Documentation Tool, Current Opioid Misuse Measure, and/or other available tools. Furthermore, throughout this time period, Respondent failed to fully evaluate potential risks of combined opiate therapy with other respiratory depressants, such as benzodiazepines.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

34. Respondent's license is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts during the care and treatment of Patient A by failing to properly provide care during the prescription of controlled substances. The circumstances are as follows:

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35. Complainant realleges paragraphs 17 through 33, and those paragraphs are incorporated by reference as if fully set forth herein.

36. Respondent committed the following repeated negligent acts during the care of Patient A:

a.) Respondent failed to take any action, including termination of Patient A from his medical practice, after learning that Patient A was in violation of multiple chronic pain agreements as she was obtaining controlled substances from other sources and at multiple pharmacies;

b.) Respondent failed to engage in a risk stratification and/or to classify Patient A's risk during continued monitoring when Patient A showed substantial risk of controlled substance misuse.

c.) Respondent continued to prescribe narcotics and benzodiazepines to Patient A, despite evidence that Patient A was misusing the drugs.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Inaccurate Records)

37. Respondent's license is subject to disciplinary action under section 2266, of the Code, in that he failed to maintain adequate and accurate medical records relating to his care and treatment of Patient A, as more fully described in paragraphs 17 through 36, above, and those paragraphs are incorporated by reference as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 52988, issued to Don Shigeo Yokoyama, M.D.;

2. Revoking, suspending or denying approval of Don Shigeo Yokoyama, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Don Shigeo Yokoyama, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED:
January 4, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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